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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
BUTTE DIVISION

ELIZABETH SADAJ,

Plaintiff,

vs.

FEDERAL INSURANCE
COMPANY and JOHN DOES 1-5,

Defendants.

Cause No. CV-17-92-BU-SEH

**NOTICE OF REMOVAL UNDER
28 U.S.C. § 1441(b) (DIVERSITY)
CLERK'S ACTION REQUIRED**

TO: THE CLERK OF THE UNITED STATES DISTRICT COURT FOR THE
DISTRICT OF MONTANA, BUTTE DIVISION

Please take notice that Defendant Federal Insurance Company ("FIC")
hereby removes to this Court the state court action described below under
28 U.S.C. § 1441(b) on the grounds of diversity jurisdiction.

1. This Is a Notice of Removal Based on Diversity of Citizenship for an Action Pending in the District Court of the Eighteenth Judicial District of the State of Montana, in and for the County of Gallatin.

FIC is the lone named defendant in a civil action filed in the District Court of the Eighteenth Judicial District in and for Gallatin County, styled *Elizabeth Sadaj v. Federal Insurance Company and John Does 1-5*, Cause No. DV-14-907C (the "State Court Action"). A copy of the Complaint and Demand for Jury Trial ("Complaint") is attached as **Exhibit A**.¹

2. FIC Received the Complaint and Summons on December 4, 2017.

Plaintiff Elizabeth Sadaj ("Sadaj") served FIC with the Summons and Complaint by mailing a copy of the same to the Montana Insurance Commissioner. On December 4, 2017, the Montana Commissioner of Securities & Insurance mailed the Summons and Complaint to FIC's Registered Agent, CT Corporation. See **Exhibit D**, Certified Mail envelope. It was received on December 4, 2017, **Exhibit D**, Service of Process Transmittal showing "Date of Service by Certified Mail on 12/04/17." Removal is thus timely under 28 U.S.C. § 1446(b) because fewer than 30 days have passed since FIC received the Summons and Complaint.

¹For the Court's reference, the other defendant identified in the Complaint, Spanish Peaks Holdings, LLC, was voluntarily dismissed out of this action by Plaintiff pursuant to Rule 41(a), M. R. Civ. P. See Voluntary Dismissal of Spanish Peaks Holdings, LLC Without Prejudice Pursuant to Rule 41(a), M. R. Civ. P attached as **Exhibit B**. The Clerk filed the Notice of Dismissal on November 20, 2017. See Notice of Dismissal attached as **Exhibit C**. Thus, FIC is the lone remaining defendant.

3. The State Court Action Concerns an Amount in Controversy in Excess of \$75,000.00, and Involves a Plaintiff and Defendant of Diverse Citizenship.

The State Court Action is a civil action over which this Court has original jurisdiction under 28 U.S.C. § 1332, and is one which may be removed to this Court by FIC pursuant to 28 U.S.C. § 1441(b) because it is a civil action between citizens of different states and the matter in controversy exceeds the sum of \$75,000, exclusive of interest and costs.

A. FIC Has a Good Faith Basis to Believe that the Amount in Controversy Exceeds \$75,000.00, Exclusive of Interest and Costs.

In this action, Sadaj has brought claims under the auspices of Montana's Unfair Trade Practices Act ("UTPA"). Sadaj has alleged entitlement to special, general, compensatory, and punitive damages. The undersigned has attempted to contact counsel for Sadaj regarding Sadaj's damages but has been unable to reach him. Based on both the nature of the Complaint and the damages asserted by Sadaj, FIC has a good faith basis for its belief this case meets the amount in controversy requirement of 28 U.S.C. § 1332(a).

B. Plaintiff Is a Citizen of Montana, Whereas Defendant Is a Citizen of New Jersey and Indiana.

FIC is informed and believes that Plaintiff is a citizen of Montana. See **Exhibit A**, State Court Action Complaint, ¶ 1. FIC is incorporated in Indiana.

FIC's principal place of business is New Jersey. Accordingly, FIC qualifies as a citizen of Indiana and New Jersey for purposes of diversity jurisdiction. Plaintiff and Defendant in this case are therefore citizens of different states. Additionally, the lone Defendant, FIC, is not a citizen of Montana, the state in which this action was filed. See 28 U.S.C. § 1441(b)(2). All diversity requirements for removal are met.

4. FIC Will Notify the State Court of this Removal.

Pursuant to 28 U.S.C. § 446(d) and L.R. 3.3(a), within seven (7) days after filing its Notice of Removal with this Court, FIC will promptly file a copy of its Notice of Removal in the State Court Action.

5. Venue Is Proper.

Removal to this Court, Butte Division, is proper because the State Court Action was filed in this Court's district in the County of Gallatin. See 28. U.S.C. § 1441(a); L.R. 1.2(c)(2).

Based on the foregoing, FIC removes to this Court the State Court Action.

DATED this 18th day of December, 2017.

BERG LILLY, PC

By /s/ Elizabeth W. Lund
ELIZABETH W. LUND
Attorneys for Defendant Federal
Insurance Company